

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

DECISION and ORDER

10-CR-6182CJS

TERRY M. DICKINSON

Defendant.

This case was referred by order of the undersigned, dated September 10, 2010 (Docket # 7), to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). Defendant, Terry M. Dickinson, is charged in a five-count indictment with distribution and possession of child pornography, in violation of 18 U.S.C. §§ 2252A(a)(2)A and (a)(5)(B). (Docket # 15). On May 31, 2011, Defendant filed an omnibus pretrial motion (Docket # 23) seeking, *inter alia*, suppression of a handwritten journal seized by federal agents on August 18, 2010 during the execution of a search warrant at his residence. On October 31, 2011, Magistrate Judge Payson filed a Report and Recommendation ("R & R") (Docket # 33) recommending that the Court deny defendant's application. On November 30, 2011 Defendant timely filed objections to the R & R (Docket # 35). On December 2, 2011, the Government responded to Defendant's objections to the R & R (Docket # 36), and by letter dated December 5, 2011, Defendant replied to the Government's submission.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R & R to which objections have been made. Upon a *de novo* review of the R & R, and after considering the Defendant's objections, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R & R (# 33), Defendant's motion (# 23) to suppress the handwritten journal seized from his residence on August 18, 2010, during the execution of the search warrant is denied.

IT IS SO ORDERED.

Dated: January 6, 2012
Rochester, New York

ENTER:

/s/ Charles J. Siragusa

CHARLES J. SIRAGUSA
United States District Judge